

House of Commons Debates

SECOND SESSION—TENTH PARLIAMENT

SPEECH

OF

MR. HENRI BOURASSA, M.P.

ON

THE LORD'S DAY BILL

OTTAWA, FRIDAY, JULY 6, 1906.

Mr. HENRI BOURASSA (Labelle). Mr. Speaker, before this motion is put I wish to make a few observations on the general principle of the Bill. I wish to state at the outset that I hope that I will make these remarks in a way that will not be offensive to any members of this House. No doubt as the discussion of the various provisions of this Bill has proceeded it has brought out some expressions that were more or less of a fighting character, but now that that stage of the discussion is passed, now that we are coming to the end of this debate, I wish to present my views as to the principle and general effect of the Bill and my reason for suggesting to the committee some amendments to the measure before it is enacted. I will, first, take the liberty of summing up the objections I have made at the various stages of this Bill by saying that to my mind the principle of the legislation is bad, that it is based upon the principle of arbitrary power, that it is against the spirit of all modern legislation, that it is practically a step back to the time of sumptuary laws, and that we have passed that period in history. First, it is arbitrary in its definition of crime. It takes for granted that a whole series of acts shall constitute a crime without defining the crime. It is the exercise of arbitrary power by the legislator when he declares something to be a crime which he does not define. Then, it

is an exercise of the same arbitrary power to declare some general exceptions which he does not define. My hon. friend the Minister of Justice (Mr. Aylesworth) gave the strongest argument against this legislation at the very inception of the debate when, being asked what was meant by these words 'works of necessity and mercy' in the third clause of the Bill, he said :

I am afraid that my hon. friend sets me too heavy a task. The words 'necessity' or 'mercy' would in any given case fail to be interpreted by the tribunal which was disposing of the matter of a prosecution, not as a question of legal meaning of the words, but as a question of fact depending on the special circumstances of the particular case under investigation.

Here is criminal legislation passed upon the assumption that it would be in the power of every magistrate in this country, of every justice of the peace, of every man appointed to administer justice, to declare that a man is a criminal and to decide whether the action charged against him comes within the exceptions to this law or not, because the author of this legislation confesses himself as being incapable of giving us an explanation of this law. Sir, sixty years ago when the parliament of United Canada enacted its Lord's day observance law which was confined to the province of Upper Canada, it gave the right of appeal to any body who thought he was done some injustice by

the magistrate condemning him under that law to the court of quarter sessions. Under this Bill we have not given that chance to an accused party. We have done away with what was thought sixty years ago to be necessary for the safety of the liberty of the individual and we have committed the liberty of every man who may be tried under this law to the jurisdiction, without appeal, of the most ignorant justice of the peace. Sir, have the people of Ontario so far retraced their steps that they will not accept the same guarantee of the liberty of the individual that the legislators of sixty years ago thought necessary for the protection of that liberty? Surely the Minister of Justice who knows far more about the principles of legislation and about the protection which is required for the individual under any piece of criminal legislation than I do, and who knows about the facts of history, knows that his ancestors as well as mine suffered time and again from the abominations committed by reason of the fact of arbitrary power being given to magistrates to condemn individuals under criminal legislation without any appeal being granted. We have now not only gone back on the steps of civilization in this country, we are not only going back to the time of the sumptuary laws of New England, but we are even going back on the steps of the parliament of United Canada which sixty years ago declared that every man who was condemned by a magistrate or justice of the peace should be entitled to an appeal to the quarter sessions court, whatever might be the amount of the fine which he was condemned to pay. Now, we have a Bill that creates an offence but which does not give a definition of the crime. We have a Bill which does not define the exceptions to that crime. We have a Bill based upon the arbitrary interpretation of the most ignorant magistrate or justice of the peace, there is no appeal from his decision, there is no appeal to any tribunal which may have a better sense of jurisprudence and which might save a great many individuals from the injustice that may occur under this legislation. But, not only is this Bill going to be a serious—I will not say injustice—to individuals, but it will be a serious hardship to a great many industries, transportation companies, to merchants of importance as well as to small dealers, and yet there is not one disposition of this Bill providing for compensation to those interests that may have been for years exercising legitimately certain rights which are now being wiped out. When the parliament of Great Britain diminished the number of public houses by diminishing the number of licences, imbued with that spirit of justice which is always found in British legislation, they decided that compensation should be provided. In this legislation, where there is no definition of the crime, where there is no

definition of the exception, where there is no chance for the condemned individual to appeal to a higher tribunal, you are wiping out hundreds of thousands of dollars and perhaps millions of dollars invested in legitimate industries and you are not even providing compensation. Sir, I think the Minister of Justice has already stated in this House, or almost stated, that he was not the author of this legislation, that he got it cooked from the holy men who prepared it.

MR. AYLESWORTH. No, from the committee.

MR. BOURASSA. From whom did the committee take it? According to the declarations made by the 'Lord's Day Advocate,' it was taken all cooked from the Lord's Day Alliance. I would like the hon. gentlemen in this House who are always getting up and saying we must have this because the Lord's Day Alliance wants it, or we must not adopt that because the Lord's Day Alliance does not want it, to remind these holy gentlemen that besides the fourth commandment there is another commandment which says: Thou shalt not steal.

And when legitimate industries have been pursued in this country for years, when a series of trades and occupations have been developed by the history of a whole race as in the province of Quebec; you come without warning, without notice to the provincial legislature so that they may give security to these industries, you wipe them out, you declare men to be criminal who have exercised these rights under the sanction of civil law as well as under the sanction of their own religious law for centuries; you ruin these industries, you persecute the people in their liberty and conscience, you declare them to be criminals for doing these things which they think moral; and you do not even provide monetary compensation for the ruin you do to some and the damage you inflict on others. These are the main reasons which should induce parliament to think twice before it passes this Bill in its present form.

More than that. Not only is this Bill against the spirit of the British law, not only is it against that spirit of justice which should be the basis of modern legislation in every civilized country, not only is it retrogressive, but it is directly against the spirit of our constitution. At the very inception of this debate we had a declaration by the Prime Minister to which I call attention. He explained the reason why this parliament was called upon to legislate, and he said that when the gentlemen interested in promoting the legislation came to the government of Canada they were told they had better go to the provincial governments, and the Prime Minister added:

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We were told and rightly told that there was a judgment in the Privy Council which seemed to make it impossible for the provinces to legislate with efficiency on this point and that the only legislation that could be effectual would have to be made by this parliament.

That declaration of the Prime Minister was directly contradicted the very next day by the Minister of Justice, who, replying to the member for Beaumarais said :

I think I can say that the gist of the whole judgment, as given by the Lord Chancellor, was that the province had by that particular legislation infringed upon the domain of the criminal law and that so far as the provinces chose to legislate upon this subject in other respects and did not put their legislation in the form of declaring something to be a crime which heretofore had not been a crime within the province, it was open for the province to legislate.

The member for South York having repeated the question the Minister of Justice reiterated :

It is certainly within the jurisdiction of the provincial legislatures to legislate on all questions relating to property and civil rights and as long as they do not encroach upon the domain of criminal law I can see no reason why they should not effectually legislate as to Sunday observance.

More than that, we had the declaration this afternoon from the Minister of Justice that the Lord's Day Observance Bill passed by the parliament of United Canada was still in force in the province of Ontario, which proves that Ontario and the other provinces have at hand the necessary power to legislate so that their ideas, their principles, their needs are carried out without forcing upon this parliament the responsibility of providing what is called a uniform law for all Canada.

The thing may be summed up in one sentence. We are now 'under the form of criminal legislation' adopting a law for the policing and good order of this country, subjects which by the spirit and the letter of the constitution are essentially provincial in their character and scope. Under the pretense of meeting the needs of some provinces we are now going directly against the spirit of the constitution, and under the name of criminal legislation enacting that which ought to be enacted in another form, and which the Minister of Justice said could be enacted in another form. It all comes to this; that because of a false interpretation of the judgment of the Privy Council in the case of Ontario vs. the Hamilton Street Railway, and because one province has adopted legislation in a wrong form this federal parliament is called upon to pass a law which is against the spirit of the constitution, and we are for the first time legislating against the autonomy of the provinces. Well, we could go a long way

in that direction. For example, suppose one province should legislate that it is a criminal act to run tramways on Sunday. Naturally that law would be set aside by the courts on the ground that the province has no right to define crime. Would that impose on the parliament of Canada the obligation to control the running of tramways on Sunday? Suppose a province should declare it a crime to sell liquor on Sunday and that law should be set aside on the ground that it defines crime which is in the sole power of this parliament, would that force the parliament of Canada to legislate against the selling of liquor? By following this precedent which has been adopted for the first time since confederation we could, under the name of criminal law, enact legislation which would interfere with the liberty of the individual as well as with the liberties of the province. We could for example step into the place of the province and declare it a crime to spit on the sidewalks; we could declare it a crime to allow animals to wander free on the roadways; we could declare it a crime to hold religious processions on the streets; we could declare it a crime to wear religious garb on the streets; we could declare it a crime for parents to send their children to separate schools instead of to public schools. Sir, if we adopt the principle which is at the bottom of this legislation there is no reason why any future parliament of Canada should not encroach upon the rights of every province, rights which have hitherto been exercised by the provinces under section 92, 93 and 95, of the British North America Act. And instead of leaving those provinces free to adopt laws for the policing and good order of their inhabitants, we could step in and define criminal offences, and thereby take it upon ourselves to control the policy of all the provinces of Canada. But, I am told, everybody in Canada wants a Sunday law. Yes, everybody in Canada wants a Sunday law just as everybody in Canada wants a school law, and a municipal law, and police laws. But just as we want police laws, and school laws, and municipal laws to be left to the provinces so that they may be framed according to the wishes, the habits, the traditions and the needs of the people of each province, in the same way we want a Sunday law to be framed according to the needs, the habits, the traditions of the various provinces. The fathers of confederation wisely thought that these matters which came in contact with the religious beliefs, the social conditions, the secular habits of the people should be left to the provinces so that this parliament might not be the theatre of social and religious strife, and so it was decreed in our constitution that questions of this kind should remain within the jurisdiction of the provinces.

I repeat that by this Act of legislation we are for the first time encroaching in the most direct way upon the spirit of the constitution and upon one of those questions which in the minds of the fathers of confederation should be left outside the province of this parliament. It is enough, Sir, that in their wisdom—or perhaps in their lack of wisdom, this is a question that has never yet been decided—it is enough that the fathers of confederation should have thought proper to enact one article by which some jurisdiction has been given to this parliament to interfere in the education laws of the various provinces. We all know the sad experience we have had in this country as to the operation of clause 131 by which this government, this parliament should be called upon once in a while to exercise jurisdiction in school matters, and thereby give birth to the dangerous results which we have unfortunately known in this country. Should we now enlarge the door and open the gates for further troubles by coming in close touch with those religious feelings and social habits of the various peoples who inhabit this country even more perhaps than does school legislation?

I may be told : That has been settled by the amendment which was moved by the hon. member for St. Mary's division of Montreal (Mr. Piché) to clause 2. I know that it was stated in Montreal by another gentleman, a member of this House, that that amendment saved the situation and that after that amendment was passed there was no more Sunday law for the province of Quebec. But, Sir, that opinion has not been supported in this House either by the Minister of Justice (Mr. Aylesworth) or by the member for St. Mary's division (Mr. Piché) himself, nor has it been proven to be so throughout the press of this country.

I am free to admit that the amendment was framed in a good spirit, that it was a move in the right direction; the only trouble is that it does not go far enough. It does not give what it purports to give. First of all the danger of that amendment is that it will give rise to more difficulties as to the interpretation of this piece of legislation as well as the interpretation of our constitution than any other law which has been adopted by this parliament. We will have the old fight as to jurisdiction between federal and provincial authority. But there will be more than that, you will have for the first time the federal legislature declaring positively that a certain series of actions must be considered crimes and at the same time empowering the provincial legislatures to say perhaps 25 years hence, that such action, declared to be a crime by the federal parliament, considered to be a crime because 25 years, shall be no more a crime because a power to which we have no right to de-

legate our power of legislation shall have made an exception 25 years after the legislation was put in force. There is no doubt that there is one class of the community that is going to derive immense benefit from this Bill, that is the legal profession, because I am quite sure that more trials, more law-suits, more pieces of prosecution will arise out of this Bill than out of any other piece of legislation, because—do not forget it, I repeat it again—in its practical application the body of men who will have to interpret this law will be the Justices of the peace and the county magistrates. No rods are laying on every farmer or on every small merchant in a village who happens to be a Justice of the peace, the obligation, the right and the duty to say whether such action as is now declared to be criminal by the federal parliament is excepted by some piece of provincial legislation that will be adopted. There will be no appeal from that. I presume if the constitutional question arises directly there might be an appeal. But then in what position do you suppose the poor man, the small merchant, the farmer, or the ordinary citizen will be in who is brought to book by the denunciations of the same men who have forced this legislation on this parliament—and we know their activity. The Lord's Day Alliance caused 500 law-suits in Canada, I am informed, last year. I was written by a gentleman in Toronto that he was brought before a magistrate because he had written three letters in his office on Sunday afternoon and was fined \$2. I was given information by another gentleman from Toronto that he stepped into a drug store in that city on Sunday afternoon for a glass of soda water and was summoned by a policeman. When he referred that policeman to the chief of police the chief said : I know the man had no authority but our men are simply persecuted by the Lord's Day Alliance to run after peaceful citizens and arrest them in their offices and elsewhere.

Mr. JOHNSTON. I think it only fair when an hon. member undertakes to make statements of that character that he should submit to the House some evidence in support of the charge he brings.

Mr. BOURASSA. With great pleasure, I have no objection to giving the statement because the gentleman who wrote authorized me to use it. The first letter reads :

Toronto, June 25, 1906.
Henri Bourassa, E., M.P.
Ottawa.

My Dear Sir,—Referring to our conversation over the long-distance phone, I am heartily glad that you have championed the cause of liberty and freedom. Why those bogus Christians have so demoralized our local police that a friend of mine writing a private letter to his own office one Sunday morning was in-

interrupted by the entrance of three policemen who said they had been telephoned for to attend to him for breach of the Lord's Day Act. He was fined \$2 next Tuesday. This was under the existing Act. What may we expect under the new one? You may use this letter.

Yours truly,

J. ENOCH THOMPSON, J.P.

N.B.—They say we have not enough police to protect property in Toronto.

Mr. W. J. REE (Halifax). Did he add that to his letter?

Mr. BOUARASSA. He is not a lawyer, he is a business man. Here is another letter, from the same gentleman. It is a copy of a letter sent to the Prime Minister and the gentleman wrote me authorizing me to read it in the House if I thought proper. I would not have read it had it not been for the interruption of my hon. friend (Mr. Johnston). The letter reads:

Toronto, Ont., March 15, 1906
Re: Hon. Sir Wilfrid Laurier, Premier.

Sir—I see you are being pestered by deputations of long-faced and-looking men near-sighted, narrow-minded and spectacled, calling themselves the Lord's Day Alliance, and demanding a special legislation to enforce their gloomy views on a long-suffering public. The official life of Hon. G. W. Ross, late premier of Ontario, was made a burden to him by those same officious busy-bodies.

I take the liberty of placing some facts before you about this organization.

When the question of Sunday cars was before the citizens of Toronto this organization stated from fifty platforms and pulpits that Sunday cars would lead to Sunday theatres and all sorts of revelry and drunkenness, and took up a collection in the city churches to fight this monstrous evil. I believe they collected \$1,400 for this special object. Now what do they do with this money? The late Mr. Copp, their treasurer, told me that over one-third of this sum was secured by one member for alleged arrears of salary, and other members also secured payments for alleged legal services. We know the result, Sunday cars carried, and the other evils they prophesied have not come to pass. It is probable that had the whole amount collected to fight Sunday cars been used for that purpose, that Sunday cars would have been defeated.

It was stated by the 'Mail' on the 10th of November last that press representatives were excluded from their meeting. It wouldn't do to expose the small attendance. I heard of one meeting of fourteen members which passed many soul-stirring resolutions. According to their own statement, their whole membership is less than one-half of one per cent of the population.

They point with pride to 148 persecutions in Toronto, and 500 throughout the Dominion whereby they have doubtless inculcated into the hearts of 500 citizens bitterness and hatred towards all churches and Christianity.

These men call themselves servants of Christ, and that is how they promote Christian love and charity.

If an erring brother breaks the Sabbath, do they reason with him or pray with him? Certainly not. There is no mercy in them. They run to the nearest magistrate and lay an information and if the victim of their Christian love is fined or imprisoned, how they shout over it!

A Jew sold a loaf of bread on Sunday morning to another Hebrew, who had none for breakfast. These vigilant defenders of the Christian religion promptly had the wicked Israelite fined.

The report states that during the past year all the prosecutions were taken by the police and crown attorneys at the public expense. This is a very serious question. Instead of protecting life and property the police all over the province and particularly in Toronto are encouraged to be snarks and spies on the private life of decent citizens, very much to the demoralization of the service.

I had an example of this one hot Sunday. Going into a drug store for a soda drink, a policeman followed me and asked my name. I told him it was none of his business, and complained against the officious policeman. The chief of police informed me that the constable had no authority or right to interfere, but was inspired by irresponsible meddlers.

It is well known that at the time (and for years afterwards) that the president of the Lord's Day Alliance was fighting against Sunday cars, he hired a couple every Sunday.

The Rev. Mr. Moore refused to travel on the wicked Sunday cars, but hired a man horse, and buggy instead, and drove in a heavy rainstorm from Hamilton to Dundas to preach against Sunday cars. I heard a rumour that the driver died of pneumonia in consequence, but I do not know if that is true or not.

If you want evidence as to the injury this band of meddlesome bigots is doing, ask any independent, moderate man like James L. Hughes, public school inspector.

The chief promoters of it are preachers without churches, and second-rate lawyers, who make money out of the agitation and bring out in contempt on true religion.

The Toronto public have never taken this association seriously, looking upon it as a fake, money-making scheme, which is the reason they have not bothered much about it. They collected over \$4,000 in six months, but publish no statement of expenditure.

I most earnestly request that you will not further the designs of these narrow-minded bigots, who wish to make innocent recreation on a Sunday a penal offence.

You may use this letter if you like.

I have the honour to be, sir,

Your obedient servant,

J. ENOCH THOMPSON.

I would not myself have used such language against the Lord's Day Alliance, I think that this gentleman—whom I have not the honour of knowing personally—is too severe upon them. My view is that a least a large proportion of those gentlemen must be sincere, and I take it for granted that they are. But the fact that they are animated by the spirit of another age, a spirit which should not exist in a Christian, civilized, modern country, is not a sufficient reason why this

parliament should go back on the best traditions of the two great nations which compose our nationality and on a principle which is at the base of all modern civilized legislation and the very spirit of our constitution. In order to enact legislation which, in the hands of those same men—for whom I have the greatest respect but who are certainly very narrow minded—is likely to be the cause of great social, political and religious trouble in this country.

Let us see what is the effect of the amendment which was made to section 2. As I have said, this section has been depleted, first of all, by the representatives of the government at that meeting in Montreal, and in the second place through their organs in the province of Quebec, as covering the whole ground. It has been stated positively in several articles in 'Le Canada' and 'Le Soleil' that after Mr. Pichot's amendment, there was no more Sunday law for the province of Quebec, that this would enable the Quebec provincial legislature to do away with all the clauses of this Bill. Well, let us see what is the record? I shall first of all, very timidly, attempt to give my interpretation of clause 2. The effect of the amendment to that clause is, if we have the right to do so, to empower every provincial legislature to make exceptions to it, within the limits of section 92 of the British North America Act. What are the provisions of section 2 of this Bill? I may sum them up in a few words. They prevent all sales on Sunday of any kind whatever; they prevent the exercise of any calling or profession; then they prevent every kind of remunerative work. I think the hon. Minister of Justice (Mr. Aylsworth) will agree with me that this is the scope of clause 2. By the amendment the provinces are given the power, if we may give it to them—as to which a great deal of doubt exists in my mind and most contradictory opinions have been given me by eminent lawyers—to make exceptions in those three cases, namely, sales, remunerative work, and exercise of calling. And in this connection the provinces also are limited by clause 92 of the British North America Act. Where is the subsection of clause 92 which empowers provincial legislatures to deal with any question of trade and commerce or any question of labour or to legislate regarding amusements? But I may be told that amusements fall under the title of civil rights. True but is the fact of being present at Bohmer Park or Dominion Park or baseball game—does that constitute a sale or the exercise of a calling or profession or remunerative work? And those are the only three things with regard to which a provincial legislature can make exceptions. Will any one tell me that to be present at Bohmer Park is the exercise of a calling or a question of trade or a work for gain? It may be—and it has been said

in Montreal—that the effect of this amendment would be to empower the city of Montreal or the provincial legislature to grant a license to the Bohmer Park authorities. That may be, but that will not prevent the application of section 2 of the Bill which makes it a criminal offence for any one to be present at any performance in Bohmer Park on a Sunday. What is the use of licensing a place to carry on amusements if the public are prohibited from attending under a penalty of from \$1 to \$10? What you are giving on the one hand you are withdrawing on the other, and you are leaving the people of Montreal, as regards public amusements, in exactly the same position as before the amendment was adopted to clause 2.

Let us come to the question of trade. It has been said that under section 2 as amended, the city of Montreal could grant licenses to small stores to keep open on Sunday. That may be. But I have always understood that the regulation of trade and commerce was specially reserved to the federal authorities.

MR. LEMIEUX. Has my hon. friend read the Royal Statute of the province of Quebec, section 340a, regarding the sale of goods on Sunday?

MR. BOURASSA. Yes.

MR. LEMIEUX. By that law we are not allowed to sell in the province of Quebec on Sunday:

Except the sale, at church doors of country parishes on Sunday, of the effects arising from public gatherings, for the benefit of the churches, or those destined for pious purposes, no shopkeeper, pedler, hawker, or other person shall sell or retail any goods, wares or merchandise, during Sunday, under a penalty not exceeding \$20 for the first offence and not less than \$20 or more than \$10 for every subsequent offence.

MR. BOURASSA. I am very much obliged to my hon. friend and very much impressed with the quotation he has read. But he knows very well that anything contained in those statutes is within the power of the provincial legislature to amend, and he knows that to-day that law is not enforced to its full extent. But when you are making a piece of legislation which the province will have no power to amend—because the only power of amending which you are giving the province is within the scope of section 2 of this Bill and section 92 of the British North America Act—the case is altogether different. The province of Quebec may repeal the law my hon. friend has just read or amend it. The people of Quebec may amend it, but they cannot repeal or amend the dispositions of this Bill which prohibit sales because trade is a matter the regulation of which is under the jurisdiction of this parliament.

MR. DEMERS. Will my hon. friend (Mr. Bourassa) allow me? Does he con-

tend that the sale, in the case of some particular private trade, is not under the control of the law of the province?

MR. BOURASSA. It may be. I am ready to grant my hon. friend (Mr. Demers) that the sale of a farm or a property, or even of an animal, might be covered by the provincial law.

MR. DEMERS. I beg the hon. gentleman's pardon. That is not what I refer to. I am not merely playing upon the word. I mean a commercial sale, but a private sale in a private trade. For instance, the trade of the small stores—does my hon. friend (Mr. Bourassa) contend that, under the constitution of Canada, that small trade is under control of the federal parliament?

MR. BOURASSA. I do not contend that this particular trade is under the control of parliament, but I contend that the moment you make it a criminal offence of any kind of trade on Sunday, while there may be some exceptions, for the most part you are left in the same quagmire of doubt.

MR. DEMERS. No.

MR. BOURASSA. Certainly you are. My hon. friend (Mr. Demers) knows that some of the best lawyers in Quebec, until two or three years ago, contended that when there was a conflict between the rights of a railway company under a federal charter to exercise its ownership and operation and the right of a private citizen to enjoy his property, and if one or other had to suffer, it was the railway company and not the private individual. The question was carried to the Privy Council, and what did the Privy Council decide? My hon. friend the Postmaster General (Mr. Lemire) knows, because his own partner, now the Prime Minister of the province of Quebec, was contending for the supremacy of the civil right in that case. But the Privy Council decided that when you had, on the one hand, the exercise of a civil right, undoubtedly a provincial matter, and on the other the exercise of the right of operation of a railway carried on under the authority of a federal charter, the civil right must give way to the other. And that is most reasonable, because the spirit of the constitution is that these powers that are reserved to the federal parliament are for the general advantage of Canada, while those reserved to the provincial legislature are for the local advantage of the province, or for the individual advantage of the citizen. I may be told that the Privy Council has generally decided for provincial power as against federal power. Sir, in my ignorance, that is not my way of interpreting the jurisprudence of the Privy Council in this matter. When the question arose of defining the limits of provincial and federal jurisdiction, they have generally sided

with the provincial and against the federal authorities. But when it came to a question of conflict between the undoubted federal jurisdiction and the undoubted provincial jurisdiction, I say the tendency—and especially the modern tendency—of the Privy Council is to decide in favour of federal against provincial legislation. And I repeat that that is right, because federal jurisdiction is supposed to be established for the general advantage of Canada. I am ready to admit that I am far from being an authority on these matters. But the opinion which I have expressed is held by some of the most eminent lawyers in Montreal. I know this, for I have discussed this matter with some of them. I contend that when a doubt like this arises, it is the duty of parliament to think twice before they make an iron rule from which the provinces may not be able to free themselves, if I were unsupported by authority, I would bow to the opinion of my hon. friend Mr. L. P. Demers, for in matters of law—at least in the details of law—he is far superior to me. But at the same time, I say that no eminent lawyers as my hon. friend have been sure for thirty-five years that the constitution meant this or that, and decisions of the Privy Council have disappointed them to such an extent that they thought proper to draw the attention to it of the legislature of the province; and when that is the case, I say it is not right to put the provinces of the Dominion or the citizens of this country in such a position that they will be unnecessarily subjected to the uncertainties of the law. There are many and many questions, since the establishment of this parliament, that have been decided with a perfect confidence by the legislatures, but that have been decided in a very different way when the questions were brought before the legal tribunals. In 1870, when this parliament, then having in its membership some of the most eminent legal and constitutional authorities that Canada has ever produced—at a time when it contained the very authors of our constitution—a law was framed for the protection of the minority in Manitoba. Thirty years later that law was brought before the Privy Council, and everything that had been put there for the protection of the minority was declared to be not worth the paper on which it was printed. Under these circumstances, is it surprising that the province of Quebec, and even my humble self, should have some hesitation in accepting the opinion of my hon. friend the Postmaster General and my hon. friend the member for St. Johns and Iberville, when we know that such men as Sir George E. Cartier, Sir A. A. Dorion, Mr. Huntington, Mr. Blake, Mr. Mackenzie, Sir Richard Cartwright and Sir Oliver Mowat, were so much mistaken when they framed the constitution of Manitoba? And, Sir, that is not the only case. I gave the instance I

did merely because it is the most striking one. But I say, for my part, that I cannot rely entirely upon that guarantee to save the sacred principles of provincial autonomy and individual liberty. There is the fact that the very author of this amendment, the hon. member for Montreal, St. Mary's (Mr. Piché), who is also a good lawyer—I do not know exactly whether he is better or not so good as my hon. friend from St. Johns and Iberville, but he is considered in Montreal a very good lawyer—expressed a view on this subject that I desire to quote. When the hon. member for St. Mary's made his motion the hon. member for Montmagny (Mr. Armand Lavergne) proposed to strike out the part of it which referred to section 92 of the British North America Act, and here is what the hon. member for St. Mary's said:

Now, you will see that in this Bill we are dealing with matters pertaining to the exclusive power of the federal government such as trade and commerce and transportation in a certain sense. I have never had the intention to allow the provincial legislatures to overrule the provisions of this Bill in matters pertaining to the federal powers.

Sir, when a tradesman in Montreal is brought before the magistrate, suppose he invokes the provincial statute. On the other hand the plaintiff, the representative of the Lord's Day Alliance, will invoke this legislation, and will say that, under this legislation, the province have no right to interfere with matters of trade and commerce, and that the federal parliament has decided that trade and commerce in this country must be restricted on Sunday to such an extent that any operation of trade is to be a crime and to be punished as such. I am not quite sure, even if the authority of twenty lawyers in this House be brought to the contrary, that all the tribunals, from the country justices of the peace up to the Privy Council in England, will decide that the opinion of the Lord's Day Alliance in this matter is wrong. They have devoted to their service some of the most eminent lawyers in this country. They have consulted their lawyers and secured their opinions in this matter, and what did Mr. Shearer say, even at the beginning of this week? I take his opinion as printed in the Montreal 'Witness,' though it was practically the same as appeared in almost every paper in Canada:

The Rev. Mr. Shearer of the Lord's Day Alliance, who has been following the Sunday Observance Bill in all its phases since its presentation to the House, declared on Saturday that, in his judgment, the amendments made to clause 2 are very far from nullifying the force of the whole enactment in practice. The only province in which they are likely to have any effect at all are at Quebec and possibly British Columbia, and it will remain for the courts to say whether any exceptions that these provinces may enact come within their

jurisdiction. In other words there will have to be a pronouncement from the Judicial Committee of the Privy Council before it is determined how far the provincial legislatures may modify the terms of the Dominion Sunday observance law.

You will remember, said Mr. Shearer, that the amendment made to the Bill on Friday limited it to one feature of the proposed law. Under it no provincial legislature would have any authority to modify the terms of the Dominion law in regard to Sunday amusements, Sunday target shooting, the closing on Sunday of parks to which an admission fee is charged, the importation of Sunday papers, Sunday excursions or the Sunday rest clause. I say again the provincial legislatures are given no power to interfere with any of these features of the Dominion law. On these subjects there will be one law throughout Canada, and in the opinion of some very competent legal authorities the effect of the modification in clause 2 that passed the House yesterday may be very different from that which some people seem to suppose.

Now, Sir, would my hon. friends think that these gentlemen who have shown so much courage, so much energy, so much intelligence—for I am ready to grant justice to these gentlemen—in forcing this House, on both sides of it, against the will of two-thirds of its members, to pass legislation like this, do my hon. friends suppose that these gentlemen will stand still after this Act is passed, and not endeavour to enforce it? No, Sir. I have more respect for them than to suppose that they will allow this law to remain a dead letter on the statute-book, and you may be sure that they will display the same energy in enforcing this law as they have in getting it passed, and it will be enforced against every individual who may fall under its provisions. It will be their duty to do so. My hon. friends need not shelter themselves under the delusion that after this law is passed it won't be applied. I have heard it said time and again: Oh you need not be afraid so far as Quebec is concerned, they would not dare to apply it in this province. Sir, only two years ago the Lord's Day Alliance in the city of Montreal successfully enforced a local ordinance closing barber shops on Sunday, until the city council decided to reject their influence. We are placing a law in their hands with which they will bring cases before every magistrate, when the magistrate is confronted by this statute he will have to put that law into force. That law will be enforced in every province in this country; moreover it will institute prosecutions against many citizens of this country, and it will be another source of disturbance in the interpretation of our constitution, and another source of friction between the different provinces. Because you may rest assured that the people of our province of Quebec are not going to swallow tamely this piece of legislation. There is no use in deluding ourselves in that regard. I do not say that

the people of the province of Quebec will revolt. The people of the province of Quebec are peaceful, they are essentially constitutional; even in the days when they were sorely provoked the people of the province of Quebec have always been in favour of constitutional agitation rather than anything savouring of rebellion. Now I say that while we have it in our power, we should avoid placing legislation on the statute-book which will be enforced against the great majority of the people of that province, against the traditions, against the social habits, against everything that those people hold dear.

Now it was stated in Montreal, as I said a moment ago, that the effect of the amendment of the hon. member for St. Mary's (Mr. Piché) was to withdraw the operation of that law from the province of Quebec, so far as provincial legislation could nullify it. I have already stated that the member for St. Mary's himself admitted that his amendment did not apply to trade and commerce. I have already stated the opinion of Mr. Shearer that this amendment did not apply to Sunday amusements, target shooting, excursions, and to all matters mentioned in the other clauses of the Bill. But there is more than that, we have the opinion of the Minister of Justice to that effect. After having stated that the effect of his amendment would be to meet the views that I have expressed in the matter of crops, that it would enable the provincial legislature to adopt legislation allowing farmers to save their crops, the minister added:

There are specific matters in regard to which this parliament having power to legislate, will have, when this Bill is adopted, exercised that power. In regard to such matters specifically mentioned, they are withdrawn from the field of provincial jurisdiction, even though they do, or may in part, concern the property and civil rights of the citizens of a province.

The same interpretation was given by the leader of the opposition, and it has not been contradicted. The leader of the opposition pointed out that the effect of this amendment would be apparently to give to the provinces jurisdiction over matters which should remain within the federal jurisdiction, and to withdraw from the provinces matters such as Sunday amusements which should remain within provincial jurisdiction. The affirmation of the Minister of Justice justified me saying in Montreal that, in spite of the amendment of the member for St. Mary's, Bohmer Park, Dominion Park and all Sunday amusements would be prohibited, and that the provincial legislature had no power to remedy the evil. But there is more than that. On Friday, on the very day when, according to the government organs, when according to the statement of the member for Hochelaga (Mr. Rivet) in Montreal, on the very day when parliament was saving the rights of

the provinces, the Minister of Justice brought in a new clause 5. Section 5 in the Bill as amended by the Select Committee read as follows:

It shall not be lawful for any person on that day to engage in any game or contest for gain or for any prize or reward, or to be present therat, or to provide, engage in, or be present at any performance at which any fee is charged, directly or indirectly, either for admission to such performance or for any service or privilege therat.

The new amendment of the Minister of Justice was slightly different, and now it reads as follows:

It shall not be lawful for any person on the Lord's day to engage in any public game or contest for gain, or for any prize or reward, or to be present therat, or to provide, engage in, or be present at any performance or public meeting at which any fee is charged, directly or indirectly, either for admission to such performance or meeting, or to any place within which the same is provided, or for any service or privilege therat.

This is the clause which was not affected by the amendment of the member for St. Mary's. If this clause is enacted, neither the legislature of the province of Quebec nor of any other province will have power to amend it or to make exceptions to it. What is the effect of that clause? First of all, it stops one of the means by which, according to our standard of civilization, we can best moralize and instruct our people. It prevents the holding of any lectures, or of any musical performance of any sort, on Sunday. In the rural sections of our country it is the habit of the people on Sunday evening to have some kind of a small concert, the proceeds of which are used in aid of a hospital, for the building of a convent, or for the purchase of a bell. The people, while having a little music at the same time have a little charitable work done to help the moral education and religious institutions of our province. You must take people as they are. It is the habit and genius of the French race to have some amusement at the same time as they are performing some charitable work. I am sure that no fair minded Englishman or Protestant would say that we are criminals because we like to have small gatherings like that on Sunday evening. It is our habit. It is permitted by our church; it is permitted by our law. Now, you come in and say that that which has been permitted for three centuries in the province of Quebec, that which was done by our ancestors is a crime and that the priests, nuns, fathers of families and young girls and boys who organize these things are going to be stamped as criminals.

Mr. LEMIEUX. If these are to alleviate sickness and suffering or are in aid of hospitals do you think that they would come under the law?

MR. BOURASSA. My hon. friend will find some magistrates who will go as far as that.

MR. LEMIEUX. For the relief of suffering and sickness?

MR. BOURASSA. The Minister of Justice was careful to state here that the exceptions under section 3 must be taken very stringently. The Minister of Justice tells us that that was one of the reasons why he amended the clause permitting the caring for animals because he told us that nobody desired an amendment that did not permit a farmer to look after his animals.

MR. DEMERS. Clause 3 provides for works of necessity and mercy.

MR. BOURASSA. As far as works of necessity and mercy are concerned; when asked to define what the law meant, the Minister of Justice did not like to give an opinion. He was content to leave the decision to a magistrate or justice of the peace. Does not the interpretation of the Bill depend entirely on the decision of the magistrate or the justice of the peace? I suppose that a magistrate would go as far as my hon. friend the Postmaster General stated if the proceeds of a concert are for sick people, but I do not think we would be justified in describing it as a work of necessity or mercy even if a concert were held to help the church. It is simply that people like better to have money raised in that way than to tax themselves. They might tax themselves for any of these purposes. They might have this concert on a week day. Nobody will pretend that it is a work of mercy because it is held on Sunday. Therefore, I claim that you are depriving the people of using a means which is in accordance with their traditions and with their history of helping these worthy objects, or, you are at least endangering to a large extent the using of these means. The proceeds are often used to buy a few books. I know that in my own village there is a village library organized under the direction of the parish priest and that four times a year they hold a concert the proceeds of which are used to buy musical instruments and books for the village library. Will my hon. friend pretend that this is a work of necessity or mercy? It may be a work of necessity in the view of the magistrate in my village who will interpret this legislation, but it may be that in another place the decision will be different. Again I say this points to the root of the evil of this measure. It is that there is no certainty. It is that the law can be interpreted one way in one village and in another way in a neighbouring village. Take some parts of the province of Quebec and some parts of the province of Ontario, and you are sowing by this legislation the germ of more racial and religious discord than in any

other way. Take some portions of the country where there is an equal population of English speaking and Protestant people and of French speaking and Catholic people. As a rule they agree splendidly because there is no law which undertakes to bring them to a common standard. But suppose you have in that village a strong Presbyterian or Methodist Justice of the peace; a Catholic is brought before him for having broken this Sunday law. I would not blame the Presbyterian or Methodist Justice of the peace, if, according to his conscience, if, according to the dictates of his church, if, according to his traditions, he believes in the strict interpretation of the enactment which has been made. You are putting in the hands of a man belonging to another race, professing another religion and having different traditions, especially upon this question, the responsibility and the only responsibility of interpreting this law and applying it to his neighbour who has different views, who has always been educated differently both in his church and by the laws of his province. So, I say you are sowing the germs of more racial and religious discord in every corner of this Dominion than you could by enacting a law saying that people shall go to this church, or that church, because, in spite of all that has been said, this will come to be a religious question. It is all very well to say that we do not force people to go to church, but abstention from work, amusements or trade on Sunday is governed by the racial and religious traditions of every man just as much as attendance at church. I know men in this House who are very strict in regard to abstention from work on Sunday, but who, I think, are not so very strict as to their attendance at church. We know that some men are more strict upon the question of external Sunday observance than upon the question of church attendance. I do not judge them, but according to our traditions that were not born the day this parliament was born, that were not born the day Canada was founded, but were born centuries ago and have grown up with our civilization and habits, we view this question from a different standpoint. The moment we have attended mass on Sunday—and our people attend mass perhaps more faithfully than the Protestant people attend their church because they have a different conception of their duty in that regard—we do not put as strict an interpretation upon the observance of Sunday as some people do. We, of course, observe the injunction to abstain from work but we give the commandment a different interpretation. I claim that not to have regard to religious differences and prejudices is to ignore the whole trend of modern history. This very question of Sabbath observance was one of the first that brought about the quarrels among the disciples of Christ. You have recorded in the Acts of

Apostles quarrels among the first disciples of Christ as to the interpretation to be given to the Sabbath law. This is the question that brought about strife and quarrels at the beginning of the reformation. You had people in France, Germany and England having others stoned because they did not interpret the Sunday observance law in the same way. Yet, you assume, because you do not put it in black and white, that the magistrate who is going to interpret this law is going to have a blank in his mind, that he is going to forget all those traditions and habits some of which to him are more sacred than life itself. I have been told by some men in this House that their parents would have considered it a crime to read a newspaper on Sunday or to look after their cattle on Sunday. I have the greatest respect for those men. It is true we should respect the convictions of every man. We have heard the Minister of Justice state that an enactment which would result in the saving of crops when they were in danger would shock the feelings of the people of Ontario when nobody would think of being shocked in our own province. Even Protestants who have been living there for some time are not shocked. But then I am told by a gentleman from the province of Ontario who knows his province, that this would be considered as shocking to the people of that province. This proves that in attempting in this parliament to create a common standard on such questions, to bring into unison by a piece of legislation the minds of the people who have thought otherwise for four centuries, we are ignoring history, we are ignoring the foundation upon which this nation is meant to be built; we are ignoring the very spirit upon which our very constitution has been established. Every one knows that one of the crucial questions before confederation was that at times you had a majority from the province of Quebec imposing its views upon Ontario, and at other times you had a majority from Upper Canada imposing its views upon Lower Canada. The fathers of confederation took proper care to remove from the field of federal jurisdiction every thing which either directly or indirectly appeals to the heart of man on racial or religious lines, and if they had not eliminated these questions confederation could not have been accomplished. Let us respect the spirit of the constitution. There will be enough troublous questions in the federal arena to arouse race and religious feelings without our going out of our way to seek others and drag them in here.

Under clause 5 you will have noticed the words 'public meeting' have been added. Now Sir, this will have as its result the direct intervention by this parliament in the method in which about two-thirds of the revenue of the churches is raised in Montreal and other places in

Quebec. So that I may not be accused of exaggeration I will read the exact words of the Minister of Justice. The member for Lincoln appealed to the Minister of Justice to make an exception in the case of Grimsby Park and he said to the minister: You are simply prohibiting people from having religious service at which an entrance fee is charged; and the Minister of Justice replied (Hansard, 1850):

I have only to say that I think religious and religious services on the Lord's day ought to be free, and unless the reverend gentlemen who are carrying on Grimsby Park are content to open their premises to the free access of citizens or else submit themselves to ordinary voluntary contribution they had better suspend these services on the Lord's day.

Now, there are many Catholics as well as Protestants who certainly have the same view on that question as the Minister of Justice has, and it therefore is not a question of creed. But as a matter of fact there are in Montreal in every church certain Masses at which the conseil de fabrique establishes a rule that an entrance fee shall be charged to these Masses. I may say en passant that the conseil de fabrique is the oldest representative institution in Canada; it is an institution which is dear to the people of Quebec because it was the first outlet they had to vindicate their desire that there should be no taxation without representation, a principle which the French Canadians were the first to assert in this country. These conseils have decided that the revenues of their church could be levied in two ways; one of which is by renting pews, I am not quite sure this clause of the Bill would not prevent the renting of pews, because these pews are rented only for Sunday service but as it is not exactly an entrance fee let us suppose that the renting of pews is not touched by this clause. However, in two-thirds of the churches of the city of Montreal an entrance fee of five or ten cents is collected at the door at certain Masses just as is done in one of the Masses in St. Patrick's Church, Ottawa. Well, I may have objections to this system but I have a much stronger objection to this federal parliament dictating in what way the bishops and the priests and the people who attend these churches are going to collect the revenue for the maintenance of their churches. What business has the parliament of Canada to say that the parish of St. Jacques, Montreal, or the parish of St. Louis de France shall collect their revenue in the way this parliament dictates. I have only to point this out to show that you are not only not carrying out the intention of the promoters and the real authors of this legislation, but you are intruding on provincial autonomy and upon the conscientious beliefs of the people. You are interfering with the rights of the people of the province of Quebec in a way

which the British government would never have thought of; in a way which unworthy representatives of the British government in the dark days of the Family Compact never dared to interfere. You are passing legislation here which interferes with rights which were respected when the province was under the yoke of John Colborne. Even when the farms were burned on the orders of the British colonel he never dared to touch on that question of how the revenues of our church should be raised; but now in 1903 you are enacting legislation which says that the parish priest of St. Jacques in Montreal will be a criminal because he charges an entrance fee of five cents to raise revenue for his church.

I need not dwell further upon the effect of this amendment. When the representatives of the government came to the Montreal meeting and stated that Mr. Piché's amendment would have for effect the annualizing of the law so far as Quebec was concerned—clause (8) concerning advertisements, clause (9) concerning shooting, and clause (10) concerning the sale and importation of newspapers, these gentlemen were not correct in their statement, and the Bill as it now stands will not be affected in this respect and cannot be affected by any provincial legislation. The result of all this is that on the one hand you are curtailing the autonomy of the provinces on a ground never contemplated by the fathers of confederation and on the other hand you are leaving to the provinces no other remedy than costly and doubtful appeals to law, the result of which the most eminent and the most enlightened lawyer in this House could not predict.

Mr. CONMEE. Would not the revenue collected by the churches be exempted under section (a) of section 3?

Mr. BOURASSA. No. Section 3 defines the exceptions to section 2; section 2 is the work, the sale, and the exercise of a calling—going to Mass is not the exercise of a calling, nor a sale, nor a paid work.

Mr. CONMEE. Section (a) says: Any necessary or customary work.

Mr. BOURASSA. Does my hon. friend say that going to church and paying ten cents at the door is a 'work'?

Mr. CONMEE. If it is customary.

Mr. BOURASSA. Not at all. Why, the Minister of Justice stated positively that section 3 is an exception to section 2 and that section 5 stands by itself. Consequently the collection by the churches in these churches will be affected. The Minister of Justice has declared so, and with all due respect I say that it is not the business of the Minister of Justice nor any one else in this parliament to say how the parish priest of St. Jacques or Notre Dame or of St. Louis

de France will raise their revenue. It is none of our business to enact any legislation to that effect.

Mr. W. J. ROCHE. What about section 2?

Mr. BOURASSA. But it is not under section 2 that this is done. Section 5 would stand entirely independent of both section 2 and section 3; section 5 stands by itself and it has been so declared by the Minister of Justice and the Minister of Justice has declared moreover that so far as this section and this Act encroaches on provincial rights, the provinces were not free to exercise jurisdiction; that we had exercised our jurisdiction and it would stand there.

Mr. DEVLIN. Under what portion of section 3 does my hon. friend consider that the charging of an admission fee in a church would come?

Mr. BOURASSA. The Minister of Justice stated that under section 5, it is prohibited to be present at any public meeting and that this would apply to churches.

Mr. AYLESWORTH. No, I did not say anything of the kind.

Mr. BOURASSA. No, the Minister of Justice did not say it in such terms but when my hon. friend from Lincoln (Mr. Lancaster) pointed out that the result would be to prevent people attending religious services, to which an entrance fee would be charged, the Minister of Justice replied: Well, religious services should be free.

Mr. DEVLIN. But a church service is not a performance.

Mr. LEMIEUX. That refers to parks.

Mr. BOURASSA. Parks? No, the article about parks has been wiped out, section 7. That which remains is this:

It shall not be lawful for any person—

I pass over the question of gain, &c.,

—to provide, engage in or be present at any performance or public meeting at which any fee is charged, directly or indirectly, either for admission to such performance or meeting or to any place where the same is provided.

Whether a park, a house, or anything else.

Mr. DEVLIN. Does the hon. gentleman pretend that any service in a Catholic church is a performance.

Mr. BOURASSA. Certainly, according to the language of the Minister of Justice (Mr. Aylesworth).

Mr. LEMIEUX. Look at the provision as to parks.

Mr. BOURASSA. That was the interpretation of a public meeting by the minister.

Mr. LEMIEUX. It means a park.

Mr. BOURASSA. No, Sir, the park clause has been dealt with, it is useless to play with words. There is no limitation in section 5, as to park, building, church or anything else. It is the fact of gathering people in some place and paying to get in that creates the offence.

Mr. CONNELL. The contribution is a voluntary one.

Mr. BOURASSA. In some churches it is paid by voluntary contribution and it is not covered by this Act and it is exactly what the Minister of Justice said. The minister said they should be contented with voluntary contributions. It is exactly the difference. At some masses here at St. Patrick's, at the nine o'clock mass, and in Montreal in some of the churches, there are masses at which there is no voluntary contribution but an entrance fee that you must pay before getting in. I am not discussing the propriety of that, but I say it is the business of these parish churches to decide whether or not it is a proper way to raise revenue. It is done to raise revenue. It is not a voluntary contribution, it is not a rental of a pew, it is an entrance fee for people meeting together in a place which is covered by this clause.

Mr. ARMAND LAVERGNE. Does not the clause say "direct or indirect?"

Mr. BOURASSA. Yes, but I am not going to make it worse than it is; I want to give the most favourable interpretation to the amendment.

Now, Sir, I think I have stated enough even without going into all the details that we have analysed during the consideration of this Bill in committee, to show the danger of legislation like this. It is fraught with danger and nothing but danger; danger from the fact that it does not define the offence, danger from the fact that it does not define the exception, danger from the fact that under false pretenses it is encroaching on provincial rights, danger from the fact that it will induce both in its enactment and application race prejudices, and differences of opinion among the people of this country, and that no legislation could be conceived that would tell more against the good peace and harmony that should exist between religions and creeds in this country.

On several occasions, I am not going to refer to private conversations, but in public, in the city of Montreal as well as in this House, I have indicated where, to my mind, the remedy perhaps may be found. Of course if I consider this legislation on its principle, I would say let us have nothing to do with it, we should not legislate upon that ground. It has been stated that the constitution should be amended. There is no need for that. By the declarations that

were made by the Minister of Justice that the provincial legislatures could legislate upon these questions, the reasons for the adoption of this law were done away with. It has been stated that this parliament was called upon to legislate because the provinces could not legislate, but now we have the best authorities to the contrary. We have the authority of the Minister of Justice, we have the authority of several of the most eminent legal men in this country that the decision of the Judicial Committee of the Privy Council never had the bearing and the meaning which has been put upon it by the very sincere men who wanted this legislation. It is said the only way to get a uniform Sunday law is to come to this parliament. Sir, I think it has been shown, even if I had not spoken, even if I had not opened my mouth once in this debate from beginning to end, every time a question cropped up which induced discussion in this House, it has been proven that this House is not the proper arena where such question should be discussed. Every time a question as to amusements for example or as to proper work to be performed on Sunday came up we had most sincere men who, from their point of view, stood up and said: Sir, you surely are not going to prevent people enjoying themselves in such a way on Sunday? On the other hand you have men just as sincere and upright who are scandalized and sincerely scandalized, because it could be said in this House that it was not a sin to play baseball on Sunday. Sir, in this discussion the question of amusements, the question of trade, the question of work, have proven to a demonstration that this is not the proper arena to discuss these questions and to legislate upon them. Sir, I will give the whole of my mind. My idea is that the Ontario government which at that time was very much embarrassed, which had been put in a rather difficult position by the action of this parliament and this government in not interfering on the prohibition question, wanted to give it for tut to this government of Canada and legislated in the form it did in order to send the question back to this parliament. To mind the duty of this parliament would be to send it back to the province of Ont., and say: You have the power to legislate, legislate freely within the powers that are given you by the constitution. And, Sir, if necessary, there would remain only one question and outside that question it would be impossible to prove that this parliament could be called on to legislate—that question is transportation. What would prevent this government passing two or three articles of the Criminal Code that would deal with the breaking of the Sunday law by the transportation companies and that would cover the whole ground? And the province would enact, as in the past, all the laws they

wanted according to their needs and traditions for the observance of Sunday by the tradesman and by the individual. I may just as well read the amendment with which I am going to conclude these remarks :

That this Act shall not go into force in any province of Canada until its legislature has enacted that the said Act shall apply to such province.

When my hon. friend from Kootenay (Mr. Galliher) put the question to the Minister of Justice, at the inception of this debate, the Minister of Justice replied that we had the right to make the application of this law in any province subject to its ratification by that province. But I had better give the exact quotation from 'Hansard' :

MR. GALLIHER. Supposing this parliament passed this Act with a clause stating that it should not come into effect in any province until the local legislature of that province had ratified it, would that give a local legislature the power to enact that this measure should be the law in that province?

MR. AYLESWORTH. I think it would be within the rights of this parliament to declare that this Act shall not come into force in any province until the local legislature of that province has seen fit to adopt it, but it would be a thing absolutely unique and entirely inadvisable.

There we have the admission of the Minister of Justice that we have the power to do this, but that it would be improper and inadvisable to do so. On this point, however, he has revised his opinion because the very principle on which my amendment is based is that which inspired the amendment of the hon. member for St. Mary's (Mr. Piché), which amendment after being first refused by the Minister of Justice, was finally accepted by him. After the minister had said that there should be no difference between the provinces as regards the application of this law because it was criminal legislation, he was brought—and brought very properly—to another point of view. It was pointed out to him that this was only criminal legislation by accident and that since we chose to declare a thing to be a crime which never was a crime before, we ought to take into account the different habits, traditions, and laws of the various provinces and not make the law of general application. The amendment of the hon. member for St. Mary's (Mr. Piché) is either good or it is not. If it is good and is going to be operative, it will not cause any less disturbance in this law than would mine. But there is this great difference between the two. At present the provinces can have only such right to legislate under this Bill as the Privy Council may decide they possess. We do not know how much that may be. It may be much or little. It may be all my hon. friend states; but there is one fact admitted,

and that is that it will not cover such things as fall under clauses 4 to 10. It will only cover what falls under clause 2. That is admitted by the Minister of Justice. How far it will affect matters of trade and commerce nobody knows. The hon. member for St. Mary's (Mr. Piché) says it will not affect trade and commerce. My hon. friend from St. John and Iberville (Mr. Demers) thinks it will. Between the two I may be allowed to remain in doubt, especially when I have the opinion of more experienced lawyers who tell me that the amendment of the hon. member for St. Mary's (Mr. Piché) will not leave the provinces free to legislate on matters of trade and commerce.

The only differences will be in matters of transportation. Let us take it for granted that the province of Quebec will not accept this legislation, what would be the difference? Would that prevent its operation in Ontario or New Brunswick or any other provinces which saw fit to accept it? Whether it be constitutional or not, every province in this Dominion has to-day different legislation regarding transportation on Sunday. Every one knows that the Intercolonial Railway does not start its trains from Montreal on Saturday so as not to pass through the maritime provinces on Sunday. It may be that this policy of the Intercolonial Railway is not dictated by any law but that it is simply accommodating itself to the habits and traditions and prejudices of you, like, of the people of the different provinces. If it be possible to-day for the Canadian Pacific Railway to operate their trains without irritating the prejudices or traditions or convictions of the people of Quebec and the maritime provinces and Ontario, as far as railway circulation is concerned, the situation will be no worse if my amendment be adopted. What will be the difference? A train might start from Montreal on Sunday and pass through Ontario in transit just as provided by this Bill, and no more. If the amendment of the hon. member for St. Mary's (Mr. Piché) will hold before the courts, it will enable the Quebec legislature to deal with matters of civil rights and labour. If that amendment be what it is declared to be by the government press of the province of Quebec, it will enable the Quebec legislature to permit a certain amount of labour to be done on Sunday, more than is allowed by this Bill, and hence the railway companies could arrange with that legislature to have more freedom in operating their yards and stations. If the amendment of the hon. member for St. Mary's (Mr. Piché) is good, if it is not a false pretense, if it is not something thrown out in order to deceive the province of Quebec, there is no reason why my amendment should not be accepted. My amendment is not to the effect that this Bill shall not go into force. On the contrary

It is more in accord with the spirit of this measure than is the amendment of the hon. member for St. Mary's (Mr. Piché) because, if his amendment be good, the result will be that you will have different kind of legislation in every province. The province of Ontario may take exception to one clause; Quebec may take exception to ten clauses; and British Columbia may object to five clauses. But if my amendment carries, each province will have to take this law as it is or not at all. You will preserve the jurisdiction you are claiming, and which I think you are wrong in claiming. But since you do claim it, it is the only effective way in which you can preserve your right to legislate and at the same time acknowledge the rights of the provinces. You have acknowledged provincial rights in theory and in practice and if you are sincere—which I do not doubt—in accepting the amendment of the hon. member for St. Mary's (Mr. Piché) then you should accept my amendment because it will preserve those two principles. It will leave to the provinces the time to think. Suppose Ontario adopts this Bill at its next session, that will give the province of Quebec time to see how it works out in practice. Suppose British Columbia adopts it and makes some amendment in the matter of civil rights, that will give time to another province to profit by its experience.

As far as precedent is concerned, this very parliament has created a precedent. In 1902 we passed an Act creating a medical council for Canada. There was a clause in that Act providing that it would not come into force until ratified by every one of the provinces. I opposed that amendment, but you will easily see the difference between the amendment I now propose and that which was accepted by the government in that Bill. The effect of that clause was to put it in the power of any one province to prevent all the others from having the benefit of that legislation. I opposed it because we were putting the province of Quebec in an awkward position. This parliament having granted a law asked for by all the other provinces, we were putting on the shoulders of the province of Quebec the responsibility of refusing to Ontario and New Brunswick and the other provinces the benefit of this legislation, which they desired. This I said, was not fair. But this is not what I am now proposing. Suppose the contention of the Lord's Day Alliance be right. Suppose the province of Ontario has not the power to pass this legislation, I am here to say as a representative from Quebec, let Ontario by all means get what it wants. Let New Brunswick get what it wants, let Manitoba have what it wants, let Nova Scotia have what it wants. But I say also, when you have the power and the right to act in this matter, do not impose a law upon Que-

bec that Quebec does not want. I repeat: If, in order to meet the wishes of the majority of the people of this country, my people were called upon to make another sacrifice, I would say, let us make it, because, after all, in this country the majority must rule. But when you have in your hands the power of satisfying at the same time the minority and the majority, then I say, not only you have no right, but it would be a national crime—as I stated in Montreal, so I repeat now, even at the risk of being called a demagogue—it would be a national crime to interfere with the rights, tradition, habits and laws of the minority; it would be a national crime not to avail yourselves of the remedy you have in your hands, a remedy that is constitutional, a remedy that is legal, a remedy that is in consonance with the very spirit of our constitution.

Sir, these are the views I declared to the people of the city of Montreal. These are the views I should be ready to declare before any audience in this country. These are the views that, I am sure, the people of Toronto, as well as the people of Winnipeg, or the people of St. John, would listen to. Because I know that, although we may have our differences, although we may have our prejudices, although we may have been divided upon questions on which we are forced to have only one law yet, when it is proven to the men of this country, whether Protestant or Catholic, whether French or English, whether living in Quebec or living in Ontario—when it is proven to a man that he can have what he wants and still allow me to have what I want; when it is proven that he can have the satisfaction of his legitimate demands, and legitimate claims, and at the same time he is not obliged to encroach upon my liberty, I believe there is not one province, or one city, or one man in this country, that would desire to interfere with my liberty just for the pleasure of satisfying pride or for lust of domination. I do not believe there is any people in this Dominion animated by such sentiments. And that is what I stated to the people of Montreal. I told the people there that the argument made that this legislation was forced upon the government because the majority of the people wanted it was not a fair argument. I told them if it were explained properly to the people of New Brunswick, of Ontario, and of Manitoba, that they could have what they want and that at the same time the people of Quebec would remain free not to have the same law, no province, no party, no group of men, however narrow they may seem from my point of view, would ask for such a law. These were the sentiments that I expressed in the city of Montreal. And this is the resolution that was adopted at that meeting:

The citizens of Montreal and its suburbs, in public meeting assembled, strongly protest against the adoption of the Lord's Day Bill now under discussion in the federal parliament.

That measure is a derogation of all the customs which have existed from all time past in the province of Quebec, and infringes deeply upon the civil rights and the social organization of which the inhabitants of that province have heretofore been possessed, both under the French régime and the various constitutions which Great Britain has granted to them since the treaty of Paris.

The citizens of Quebec, as well as those of Ontario, are anxious to preserve the religious character of the Lord's day and to assure to the working classes the rest to which they are entitled.

Deeply imbued with the principles of liberty and with respect for the conscience of their neighbours, they acknowledge without any reservation to the citizens of the other provinces the right to accomplish as they think fit that Christian and social duty, but they believe they are entitled equally to the right of practising the same duty, within the limits of their province, according to their national and religious traditions and to their public laws and customs, older as they are than those of any other province in Canada.

Such a question, involving as it does creed, racial tradition, family habits, civil rights and social organization, should remain within the sphere of action covered by provincial legislation; and according to the declaration made by the Minister of Justice, the legislature of every province could enact under a different form, laws for the observance of Sunday in conformity with the needs and wishes of the people of such province.

At all events, the federal parliament should restrain its action to the adoption of a law regulating the circulation of trains and steamships on Sunday.

The citizens of Montreal hereby appeal to the members of the Senate and House of Commons without regard to race, creed or party, in the name of the peace which should reign undisturbed between the two great social elements of which the people of Canada is mainly composed, and request them most urgently to have regard to provincial rights in this matter and not to impose on the province of Quebec a law contrary to the customs, the sentiments, the interests and the civil rights of its inhabitants.

It is hereby suggested that if a majority of the representatives from the other provinces are anxious to press the adoption of this measure, a clause should be inserted therein providing that the Act shall come into force only in those provinces where the legislature shall enact that the said Act shall apply to their respective territory and inhabitants.

In consequence of all that is above stated, this meeting approves of the attitude of the members of the House of Commons who have heretofore opposed this measure and of their efforts in endeavouring to have it amended, and affirms that their duty as well as the duty of every representative of the people anxious to preserve the liberties of the people, is to oppose by his vote the third reading of the Bill unless such a clause is added as will reserve absolutely to the provincial legislatures a ratifying power.

Sir, I have stated—

MR. ETHIER. May I ask the hon. gentleman a question?

MR. BOURASSA. Certainly.

MR. ETHIER. Who drew up that resolution?

MR. BOURASSA. That resolution was drawn up by a committee in Montreal. It was moved by about eight or ten citizens whose names I do not now recall, representatives of labour and of various industries.

MR. ETHIER. Of whom was that committee formed?

MR. BOURASSA. Its membership was published in the newspapers. It consisted of about fifty gentlemen, with Mr. Guillaume Bolvin, a leading Liberal manufacturer, and Mr. Latrelle, one of the representatives of the workingmen, at their head, and including gentlemen belonging to the bar, to trade, to manufacturers and to labour. But, Sir, it does not matter who proposed this resolution, it does not matter who drafted it. This resolution was proposed to that assembly, and it was asked if there was any dissent from it. Gentlemen were invited to go there and express their differences of opinion. But I go further. I say not only that it does not matter whether this was prepared by one man or by twenty, but it does not matter whether it was ratified by twenty or by twenty thousand; I ask any fair minded man in this House: Forget for a moment that we sit on either side of Mr. Speaker, forget that we are French and English, Catholic and Protestant; I go further and appeal to these gentlemen with whom I may have had some hard words within the last few days, whether of my race or of any other;—let us forget all the differences that may divide us and that may divide people in this country, forget all this and tell me: Is there any thing in this resolution passed at the meeting in Montreal, or in this amendment which I have just proposed, that is not in conformity with the best traditions of our country, that is not in conformity with the spirit of our constitution and even deeper and more fundamental—with the best wishes and best ideas of the average man in this country? Is there anything in this amendment which tells against the pride or feeling of any man? Is there anything in this amendment which tells against the responsibility of the government? Is this, for instance, to be considered a motion of want of confidence? Why, for the last three days leading organs of the government in the province of Ontario have been advocating exactly the same position. Not later than last night, the Ottawa 'Free Press,' after having published two days ago the text of an amendment almost word for word what I have been urging upon this House, spoke editorially as follows:

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The Sabbath Observance Bill is the hardest act that the House has had to crack this session. It is now stated that there is a probability that a clause will be inserted providing that the Act shall not go into force in any province until it has been ratified by the provincial legislature. That strikes us as a very satisfactory solution of a most difficult problem.

The people of Quebec regard the measure as a gross interference with their rights, and the probability is that if an attempt were made to enforce it there would be almost a semi-revolution in that province; certainly a good deal of dangerous ill-feeling would be engendered.

And later in the article:

Ontario should not desire to arbitrarily force its opinions on Quebec. We in this province would resist to the last any attempt on the part of the people of Quebec to enforce the 'open Sunday' upon us. The 'majority rule' argument must give away before the supreme necessity for a united Canadian nation living and working together in harmony and brotherly love.

In closing, may I not make a direct appeal to the Prime Minister (Sir Wilfrid Laurier) himself? It may be said,—and I acknowledge it—that I may have said things against the Prime Minister at times that did not please his best friend. But, as I have stated, we all have our different ways of understanding what is one's public duty. I am not here to discuss that point to-night; but I am here to appeal to the best instincts of the Prime Minister. In spite of what may have passed between you and those who may think as I do, I appeal to you to remember that the eyes of the people of Canada are fixed upon you to-night.

It is in your hands to decide whether you will give to this Bill the stamp which will make it acceptable to the people of this country. You can do that or you can refuse to do it. But I say again, we are not at present in the same condition that we were on some other questions that have caused much difficulty in this country. We are not in the same circumstances that we were in the

Manitoba school case, or the Northwest school case, or the Boer war, because in those days the government were obliged to adopt and follow one line of action. I think that the government were wrong then, but the people of Canada have judged that they were right. But the position to-day is not what it was then. Then you were forced as a government to adopt certain legislation or to follow one line of action. But that is not the case at present. You can adopt this legislation and give satisfaction at the same time to both Quebec and Ontario. I repeat to the Prime Minister that when it is a question of choosing between Quebec and Ontario, when it becomes necessary to trample either upon the feelings of Quebec or the feelings of Ontario, in such a case there must necessarily be a compromise, there must be give and take. On an occasion like this, when you can give to Ontario what it desires, and when you can refrain from imposing upon Quebec what she does not desire, I appeal to the best feelings of the Prime Minister, I appeal to the principles he has preached, to the conduct he has followed ever since he began his career, and I say, do not minimize the authority of the voice that is uttering these sentiments to you. If anything personal has passed between us, let us ignore it, let us trample upon personal feelings. But I repeat to you that my voice to-night is not the voice of a simple individual, it is the voice, not only of Quebec but it is the voice of Ontario, as spontaneously expressed in many of their newspaper organs, and it appeals to you that, while giving to Ontario what she wants, you do not impose upon Quebec what she does not want. In conclusion, Mr. Speaker, I move that the Bill be not now read a third time, but that it be referred back to the Committee of the Whole with instructions to insert the following clause:

18. This Act shall not come into force in any of the provinces of Canada until the legislature of such province has enacted that such Act shall apply to the said province.